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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE101

Programmatic Environmental Assessment on the Issuance of Take Authorizations in Cook Inlet, Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; intent to prepare a Programmatic Environmental Assessment; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) announces: its intent to prepare a Programmatic Environmental Assessment (EA) to analyze the environmental impacts of issuing annual Incidental Take Authorizations (ITAs) pursuant to the Marine Mammal Protection Act (MMPA) for the taking of marine mammals incidental to anthropogenic activities in the waters of Cook Inlet, AK, for the 2016 season and; its intent to institute an MMPA authorization cycle wherein companies planning to submit MMPA incidental harassment authorization applications for work to be conducted in Cook Inlet in 2016 do so by no later than October 1, 2015.

DATES: All comments, written statements, and questions regarding the proposed process and preparation of the EA must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries

Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *itp.young@noaa.gov*. Comments sent via e-mail, including all attachments, must not exceed a 25-megabyte file size. NMFS is not responsible for comments sent to addresses other than those provided here.

Instructions: All comments received are a part of the public record and will generally be posted to *<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

An electronic copy of the application may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>*. **FOR FURTHER INFORMATION CONTACT:** Sara Young, Office of Protected Resources, NMFS, (301) 427-8484.

SUPPLEMENTARY INFORMATION:

Background

Sections 101 (a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment for a period of one year or less, a notice of proposed authorization is provided to the public for review. The term “take” under the MMPA means “to harass, hunt, capture or kill, or attempt to harass, hunt, capture, or

kill.” Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as “any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].”

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as “an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.”

Concern for Cook Inlet Beluga Whales

Cook Inlet is a semi-enclosed tidal estuary located in southcentral Alaska and home to the Cook Inlet beluga whale, a small resident population that was designated as depleted under the MMPA and listed as endangered under the Endangered Species Act (ESA) in 2008. The stock has not recovered, despite implementing subsistence hunting regulations in 1999, and cessation of hunting in 2007. In light of this, and in recognition of the increasing industrial activity and development in Cook Inlet, NMFS has taken a number of actions that reflect the high level of concern for the species, including:

1. On October 14, 2014, NMFS announced its intent to prepare an Environmental Impact

Statement pursuant to the National Environmental Policy Act to analyze the effects on the human environment of issuing authorizations for the incidental take of marine mammals from activities occurring in both the state and Federal waters of Cook Inlet, AK, from Knik Arm in the northern part of the Inlet to the southern edge of Kachemak Bay on the southeastern part of the Inlet and to the southern edge of Cape Douglas on the southwestern part of the Inlet (“Cook Inlet beluga EIS”). NMFS included a 75-day public comment period for the Notice of Intent and conducted a scoping meeting in Anchorage Alaska on November 3, 2014.

2. On November 3, 2014, NMFS convened a multi-stakeholder meeting in Anchorage Alaska: Conservation and Recovery of Cook Inlet Beluga Whales in the Context of Continued Development. The purpose of the meeting was to engage stakeholders and begin exploring Cook Inlet specific solutions for mitigating and monitoring adverse effects on belugas, while also allowing for sustainable development. The first day of the two-day workshop was devoted to background and updates related to the status, ecology, and stressors of Cook Inlet belugas and the standards set by the MMPA and the Endangered Species Act (ESA). The second day included an exploration of measures and strategies to minimize anthropogenic impacts, promote recovery, and increase understanding of impacts, as well as a discussion of these objectives in the context of ensuring MMPA and ESA compliance for future activities. Information related to this meeting is available at: <http://www.nmfs.noaa.gov/pr/permits/cookinlet.htm>.

3. In May 2015, NMFS unveiled its “Species in the Spotlight: Survive to Thrive” initiative. This initiative includes targeted efforts vital for stabilizing eight species—including the Cook Inlet beluga whale—identified among the most at risk for extinction. The approach involves intensive human efforts to stabilize these species, with the goal that they will become candidates for recovery.

4. On May 15, 2015, NMFS released the Draft Recovery Plan for Cook Inlet belugas. The population continues to show a negative trend, despite the cessation of subsistence since 2005. Although the exact cause of the continued decline in the absence of subsistence hunting is unknown, the Recovery Plan identifies likely threats, including three threats of high relative concern: noise, catastrophic events, and the cumulative and synergistic effects of multiple stressors. Threats of medium relative concern include disease, habitat loss or degradation, reduction in prey, and unauthorized take. Due to an incomplete understanding of the threats facing Cook Inlet beluga whales, NMFS is unable to identify with certainty the actions that will most immediately encourage recovery. Until we know which threats are limiting recovery, the strategy of the Recovery Plan is to focus on threats identified as medium or high concern.

Announcements

The actions summarized above include multi-year efforts that are not likely to result in substantial changes in the short-term. NMFS announces here additional steps to help inform agency decision making in the interim.

Annual Programmatic EAs—The preparation of an EIS is a lengthy and intensive process that, in the case of the for Cook Inlet beluga EIS, will likely take two or more years. Accordingly, in recognition of our ongoing concern over Cook Inlet belugas, while the Cook Inlet beluga EIS is being prepared, NMFS will develop annual Programmatic Environmental Assessments (EAs) to analyze the effects of issuing of multiple concurrent one-year MMPA authorizations to take Cook Inlet beluga whales. A programmatic EA will aid us in more effectively assessing the aggregate effects of multiple incidental take authorizations s and to more comprehensively consider a range of mitigation and monitoring measures in the context of the multiple activities.

MMPA Authorization Cycle (Application Deadlines): To support our efforts to prepare an annual Programmatic EA that covers all MMPA incidental take authorizations issued within a year, NMFS is creating an application cycle for incidental take authorizations that include Cook Inlet beluga whales, beginning with the 2016 open water season. NMFS requests all prospective MMPA incidental take authorization applicants for a given open water season submit their applications by October 1st of the preceding calendar year (unless the activity is scheduled to occur before May, in which case they should be submitted earlier). Receipt of those MMPA applications by October 1 will aid NMFS in the development of a timely and well-informed EA and related MMPA authorizations. NMFS cannot guarantee the processing time for applications received after October 1.

Dated: August 6, 2015.

Donna S. Wieting,
Director,
Office of Protected Resources,
National Marine Fisheries Service.

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